HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.9213 of 1998

Dated 24th day of April, 2007

Between:

A. Veera Malleswara Rao ..
Petitioner

And

Sri A. Bhupathi Rao
and five others ..
Respondents

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O R D E R:

This writ petition is instituted to quash the order, dated 4.12.1992 passed by the 4th respondent, which was confirmed by the 5th and 6th respondents.

The petitioner asserts that his father and the father of the 1st respondent are own brothers. The 2nd and the 3rd respondents, who are also the brothers of the petitioner's father, were born to their stepmother. The petitioner's father, the 1st respondent's father and the 2nd and 3rd respondents partitioned their properties in the year 1953 and separate pass books were issued to them. An extent of Ac.19.06 guntas of land fell to the share of each of four brothers and they have been in peaceful possession and enjoyment of the same. The petitioner's father dug a well and developed the lands. At the time of partition, the petitioner's father and his brothers chose to put their lands together and subsequently got divided their property in the year 1966. The passbook khata No.232 stands in the name of the petitioner's father, Khata No.114, in the name of Sri Venkaiah i.e. the father of the 1st respondent and passbook Khata Nos.230 and 231 in the name of the 2nd and 3rd respondents respectively. The total extent of land that was partitioned in the year 1953 was Ac.76.24 guntas comprised in various survey numbers and situated at Kolanupaka village. The lands belonging to the petitioner's father are covered by S.Nos.1887, 1906, 1909, 1912, 1917 and 1925. The petitioner's father died in the year 1988. When the respondents 1 to 3 filed a petition under Section 5(a) of the Record of Rights Act, 1989, the 4th respondent-Mandal Revenue Officer proceeded to apportion the lands afresh by his order,

dated 4.12.1992. Now, the petitioner's grievance is that when he filed an appeal, the 5th respondent-Sub-Collector dismissed it confirming the order, dated 4.12.1992. Aggrieved by the same, when he preferred a revision, the 6th respondent-Joint Collector also dismissed it confirming the order of the 5th respondent.

The respondents have filed a detailed counter *inter alia* denying all the averments made in the affidavit.

This Court, on 10.4.2007, after hearing the learned counsel for the petitioner, the learned counsel appearing for the respondents 1 to 3 and the Government Pleader for Revenue, came to the conclusion that the authorities rightly entered the names of the petitioner as well as the respondents 1 to 3 in the revenue records and when this Court was about to pronounce the judgment, the learned counsel for the petitioner sought time saying that he would cite some judgments. Accordingly, the matter was posted for judgment on 13.4.2007. However, on 13.4.2007, when the matter was taken up, a representation was made stating that the learned counsel for the petitioner was busy in some other Courts. Accordingly, he was accommodated and the matter was adjourned to 20.4.2007 and again to 23.4.2007. Further, at the instance of the learned counsel for the petitioner, the matter is adjourned to this day. Today, in the morning, when the matter was taken up for hearing, a representation was made seeking passover. Now, during lunch hour, when the matter is taken up, a note is furnished on behalf of the learned counsel for the petitioner, but no copies of the judgments are produced nor has he argued the matter on the basis of the judgments cited. All this clearly establishes the callousness on the part of the learned counsel for the petitioner.

Now, coming to the merits of the case, evidently, there was a formal partition between the petitioner and the respondents 1 to 3 in the year 1966 and a representation was made requesting the 4th

respondent-Mandal Revenue Officer to mutate their names as per the partition that took place in the year 1966. According to the respondents 1 to 3, the 1st respondent's father by name late Venkayya, owns an extent of Ac.76.24 guntas and in the partition each of them including the petitioner herein got an extent of Ac.19.06 guntas and the same was requested to be mutated in the revenue records. When the petitioner herein, after being served with a notice, stated that he has no objection for the mutation, the 4th respondent mutated the names in favour of the petitioner as well as the respondents 1 to 3, against which, of course, an appeal and a revision were preferred by the petitioner but was not successful in his attempts and hence, he has filed the present writ petition.

I am unable to agree with the learned counsel for the petitioner that the authorities acted beyond their scope and partitioned the lands belonging to the petitioner. It is only on the information given by the respondents 1 to 3 that there was a formal partition, and when the 4th respondent caused service of notice to the petitioner, he also agreed that he has no objection for such mutation. Further, the mutation, in no way, confers any right whatsoever. Ultimately, if there is anything, it is always open for the petitioner as well as the respondents 1 to 3 to go to a competent civil Court of law and agitate their rights. Hence, this Court is of the view that the order dated 4.12.1992 passed by the Mandal Revenue Officer which was confirmed by the authorities mutating the names of the petitioner as well as respondents 1 to 3 in the revenue records is perfectly justified.

Hence, I see no merits in this writ petition and the same is accordingly dismissed. No costs.

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24.04.2007

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